

***United States Court of Appeals
for the Second Circuit***



APPENDIX

ORIGINAL 75-1331

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P/S

In The
United States Court of Appeals

For The Second Circuit

No. 75-1331

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

vs.

RONALD GIGLIOTTI,

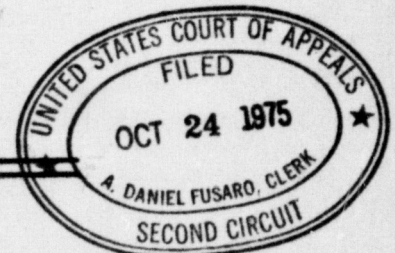
Defendant-Appellant.

*On Appeal from the United States District Court for the Eastern
District of New York*

APPENDIX FOR DEFENDANT-APPELLANT

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A \$60 horse by the name of Samantha at Aqueduct.

Q When was that?

A About a year and a half, maybe two years ago.

Once again, if I tell you a year and a half I could be wrong.
If I tell you two years, I could be wrong, too.

Q Let me ask you this, Mr. DiPalma. Did the FBI
or the assistant U.S. attorney ask you these questions like
I am asking you?

A Sir, I told the FBI --

Q I asked you a question.

A Yes, sir.

Q Did they ask you questions?

A The FBI did.

Q Did Mr. Ruffels?

A Mr. --

Q Did Mr. Ruffels ask you questions?

A Yes, sir, he sure did.

Q Did he ask you whether you were a bookmaker?

A Yes, sir.

Q Did you tell him the truth like you are telling
us?

A I did so, sir.

Q Suppose I told you that this morning Mr. Ruffels
testified that when he asked you these questions you told him

Rest 19

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DiPalma-cross

that you never kept any of the bets; you always hedged them all off at Aqueduct or OTB; and, therefore, you never violated any laws? Did you tell that to Agent Ruffels?

MR. NAFTALIS: Objection, your Honor.

THE COURT: I will allow him to put a hypothetical to him.

Q Did you tell Agent Ruffels that?

A All I know is, I told Agent -- once again, I got to just say the same thing, your Honor. I can't be sure but three years ago when any person could say exactly in sentences and words. It's impossible for me to be so precise on words. I would be a genius. I can't remember a lot of things, your Honor. This is three years ago. And I am sorry. I am sorry. I can't remember.

Q Did you tell him, Mr. DiPalma, that -- did you tell Agent Ruffels that you never kept a bet yourself?

A I -- I don't know. I'm not sure.

Q Well, if you did tell him that, would it have been a lie?

A All I told him, I was a bookmaker holding bets or -- no, not -- I don't know if I told him that. If I did, I did. If I didn't, I didn't. I don't remember that.

Q Mr. DiPalma, do you know the difference between

a bookmaker and an accommodation bettor?

A No, sir, I don't.

Q Do you know it's against the law to be a bookmaker?

A Yes, sir, I do.

Q Did you think you were violating the law in 1970 or '71 or 1972 or whenever this was?

A All I did --

Q Did you? Did you think you were violating the law?

A OTB was there. And I couldn't see it being a violation if I took most of my bets at OTB and made my bets at OTB, and all I got out of the deal was absolutely nothing. It was mostly for a favor for these guys.

Q Have you ever been questioned by anyone other than Agent Ruffels as to whether you were a bookmaker?

A No. I wasn't questioned by anybody other than Mr. Ruffels.

Q Didn't Mr. Naftalis call you in and ask you questions about this? Mr. Naftalis?

A Mr. Naftalis might have. But I thought you meant another law-enforcement officer.

Q Didn't he just a few moments ago call you in?

A Yes.

Q Did he ask you, had you ever taken bets from
from **Ciro Riccardi**?

A Did he ask me? Yes, he did.

Q That's not the first time **Mr. Naftalis** has
called you in and asked you about something you did in the
past, is it?

MR. NAFTALIS: Objection. There is no
evidence as to that in this trial.

Q Is that the first --

MR. NAFTALIS: Your Honor --

MR. LA ROSSA: I accept the objection. I
will withdraw it.

THE COURT: Wait a minute. This is cross-
examination. He is entitled to ask these kinds
of questions.

I will allow it.

(Continued on next page.)

/LH

DiPalma-cross/LaRossa

MR. NAFTALIS: Your Honor, I would kindly ask that Mr. LaRossa, though, keep his voice down. He's obviously harrassing the witness.

THE COURT: Mr. LaRossa, stand behind the lectern and not emulate Mr. Newman. I don't think it's necessary.

MR. LA ROSSA: Judge, I have been doing this for so long I really don't emulate anybody.

Q If I am harrassing you, just put up your hand. I am sorry. It is the last thing in the world I would like to do?

A No, you're not harrassing me.

Q Thank you.

Is that the first time that Mr. Naftalis called you in to his office and asked you to tell him something about you that happened in the past?

A It might have been, counselor. It might have been.

Q Think, please. Sit and think.

A I can't think anymore. I can't. I am explaining to you the truth. I cannot think anymore. I can't. A lot of things happened to me in three years. I cannot think.

Q You're really not sure, Mr. DiPalma, of what

DiPalma-cross/LaRossa

happened in the past; is that right?

A I am sure of only what I can remember that hurt me. That's what I am sure of. But other than that, I am not sure of those other things. I am not.

Q Did you file a tax return in 1971?

A Most likely I did. My wife handles that. I don't.

Q Did you put down that you were a bookmaker?

A My wife handles that. Again, I don't.

Q I didn't ask you that.

A Oh, no. I guess not.

Q Did Mr. Naftalis ask you if you put down on your tax return that you were a bookmaker?

A No sir, he did not.

Q Did he ask you to see your tax return for 1971?

A If he would, he would have been shocked.

Q Did he ask to see your tax return for 1971?

A Well, no, he didn't.

Q Did you file a tax return for 1972?

A Did I? I sure did.

Q Did you put down that you were a bookmaker?

A No sir, I did not.

Q Did you report the gambling earnings?

A What earnings?

DiPalma-cross/LaRossa

1
2 Q Did you report any winnings that you made?

3 A How could I? I never won. How could I put
4 down anything? I told you I was a born loser.

5 Q So you never won once?

6 A No, I won. Yes. Yes, I won a few times. But
7 when you mean --

8 Q How many times have you won in the last three --

9 MR. NAFTALIS: Your Honor, would you instruct
10 Mr. LaRossa to let Mr. DiPalma answer the question.
11 He keeps cutting him off.

12 MR. LA ROSSA: If I'm harrassing him, please
13 tell me and I will stop. That's not my style, Judge.

14 MR. NAFTALIS: I object to this speech.

15 THE COURT: All right. I think we have had
16 enough. We will take a luncheon recess.

17 Be back, ladies and gentlemen, at 2:15. Don't
18 discuss the case in the interim.

19 MR. LA ROSSA: May I ask you to stay for
20 just a moment.

21 THE COURT: Yes. You may go. Don't discuss
22 the case with anybody. Be back promptly.

23 (Whereupon, the jury retired from the courtroom.)

24 (Witness excused.)

25 MR. NAFTALIS: Your Honor, if I may --

1 MR. LA ROSSA: May I at this time ask for a
2 direction --

3 May the witness wait.

4 THE COURT: Wait.

5 MR. LA ROSSA: That my cross-examination be
6 completed without interruption in that the witness
7 should not discuss his testimony with any Federal
8 Agents or Assistant US Attorney.

9 THE COURT: No. You are not entitled to that
10 anymore than they are not entitled to -- not to discuss
11 the case with your client.

12 MR. LA ROSSA: I think there is a big difference.
13 And a lot of judges have respected it.

14 THE COURT: There's no difference at all.
15 There's no reason why the US Attorney can't talk to
16 any witness of theirs. That is the most outrageous
17 idea I have ever heard of.

18 MR. LA ROSSA: A lot of judges comply.

19 THE COURT: For ten years I have tried cases
20 and everytime I have a witness I'd go out to lunch
21 with him and I would discuss the case with him. I
22 know of nothing wrong with it, with anybody discussing
23 the case with a witness.

24 MR. LA ROSSA: Of course not. I am talking
25 about during cross-examination. That's all.

UNITED STATES COURT OF APPEALS
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UNITED STATES OF AMERICA,

Plaintiff-Appellee,
against

RONALD GIGLIOTTI,

Defendant-Appellant.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF

NEW YORK

ss.:

I, James A. Steele *being duly sworn,*
depose and say that deponent is not a party to the action, is over 18 years of age and resides at
310 W. 146th St., New York, N.Y.

That on the 24th day of October 1975 at 225 Cadman Plaza, Brooklyn., N.Y.

deponent served the annexed Appellant Brief *upon*

the Attorney *David G. Trager* in this action by delivering a true copy thereof to said individual
personally. Deponent knew the person so served to be the person mentioned and described in said
papers as the *herein,*

Sworn to before me, this 24th
day of October 19 75

Robert T. Brin

James A. Steele
JAMES A. STEELE

ROBERT T. BRIN
NOTARY PUBLIC, State of New York
No. 31-0413050
Qualified in New York County
Commission Expires March 24, 1977

